

May 24, 2002

**APPROVAL OF RESALE AGREEMENT
AND AMENDMENT THERETO
NEGOTIATED BY BELL SOUTH
TELECOMMUNICATIONS, INC. AND
UNIVERSAL TELECOM, INC. PURSUANT
TO SECTIONS 251 AND 252 OF THE
TELECOMMUNICATIONS ACT OF 1996**

DOCKET NO. 02-00235

The second related docket, Docket No. 01-00674, resulted from Universal's July 31, 2001 filing titled *Submission of Interconnection Agreement for Public Interest Review*. In this filing, Universal requested that the Authority issue a declaratory ruling and order compelling

BellSouth to apply the 21.56% discount rate on a retrospective and prospective basis or, in the alternative, compel BellSouth to unbundle OS/DA and apply the 21.56% discount rate effective March 8, 2001. Attached to the filing was an interconnection agreement executed by Universal and BellSouth.

On October 3, 2001, Universal filed a *Motion for Judgment on the Pleadings* in Docket No. 01-00613. On October 19, 2001, Universal filed a *Motion for Continuance* in Docket No. 01-00674. In the *Motion for Continuance*, Universal requested that the Authority address the issues in the two dockets simultaneously. The Authority placed both dockets on the Conference Agenda for the November 6, 2001 Authority Conference. During the November 6, 2001 Authority Conference, the parties represented that they had settled both dockets and that they would be filing settlement documents with the Authority for its consideration.

On February 13, 2002, the Authority forwarded a data request to the parties instructing them to submit their settlement agreement and an amendment to their interconnection agreement. On February 20, 2002, BellSouth submitted a *Settlement Agreement and Release* on behalf of both parties in Docket No. 01-00613. On April 11, 2002, the Hearing Officer issued an order in Docket No. 01-00613 accepting the *Settlement Agreement and Release* and dismissing the *Formal Complaint*.

On March 6, 2002, the parties further responded to the Authority's data request by filing the *Petition for Approval of Resale Agreement and Amendment Thereto Negotiated Between BellSouth Telecommunications, Inc. and Universal Telecom, Inc. Pursuant to the Telecommunications Act of 1996* with the Agreement and Amendment attached. This filing was assigned the docket number that is the subject of this Order, Docket No. 02-00235.

Based upon the Petition, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously approved the Agreement and Amendment and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) Pursuant to the Agreement and Amendment, once certain accounts are established, BellSouth will be able to bill the appropriate discount rates. If Universal does not resell Lifeline service to any end user and agrees to order an appropriate OS/DA block as set forth in BellSouth's General Subscriber Services Tariff, then the discount shall be 21.56%. If Universal resells Lifeline to a Tennessee end user, then BellSouth will apply the 16% discount.
- 3) The Agreement and Amendment are in the public interest as they provide consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.
- 4) The Agreement and Amendment are not discriminatory to telecommunications service providers that are not parties thereto.
- 5) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it "discriminates against a telecommunications carrier not a party to the agreement" or if the implementation of the agreement "is not consistent with the public interest, convenience or necessity." Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).¹ Thus, although the Authority finds that neither ground for rejection

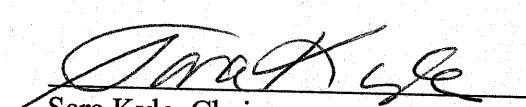
¹ See 47 U.S.C. § 252(e)(2)(B)(Supp. 2001).

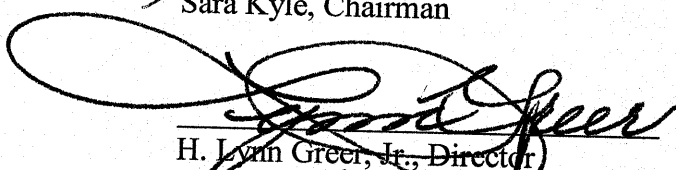
of a negotiated agreement exists, this finding should not be construed to mean that the Agreement and Amendment are consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.²

- 6) No person or entity has sought to intervene in this docket.
- 7) The Agreement and Amendment are reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.
- 8) There are no issues for determination remaining in Docket No. 01-00674.

IT IS THEREFORE ORDERED THAT:

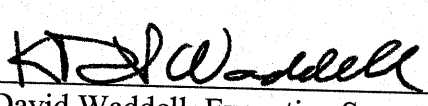
1. The Resale Agreement and Amendment thereto negotiated between BellSouth Telecommunications, Inc. and Universal Telecom, Inc. is approved and is subject to the review of the Authority as provided herein.
2. Docket No. 01-00674 is closed.


Sara Kyle, Chairman


H. Lynn Greer, Jr., Director


Melvin J. Malone, Director

ATTEST:


K. David Waddell, Executive Secretary

² The Authority has issued a request to BellSouth requesting that it provide to the Authority a detailed filing explaining any provisions of the interconnection agreement that differ from previous Authority decisions. BellSouth has not responded to this request.